

REMARKS

This submission is made in response to the Non-Final Office Action dated August 8, 2006. Claims 1, 3, 4, 6-15, 17, 18, and 20-28 are currently pending for examination, of which claims 1, 15 and 28 are independent; the remaining claims are dependent claims. In response Applicant has filed herewith an Amendment amending independent claims 1, 15, and 28, amending dependent claims 3, 6, 17, and 20, and canceling claims 2, 5, 16, and 19.

Applicant and the undersigned are most grateful for the time and effort accorded the instant application by the Examiner. The Examiner is respectfully requested to reconsider the rejections presented in the outstanding Office Action in light of the foregoing amendments and following remarks. It should be noted, however, these amendments are not in acquiescence of the Office's position on allowability of the claims, but merely to expedite prosecution.

Rejection of claims under 35 U.S.C. § 103(a) over Neel in view of Russo:

Claims 1-12, 15-25 and 28 stand rejected for being unpatentable over U.S. Patent 5,838,314 to Neel et al. (hereinafter Neel) in view of U.S. Patent 5,619,247 to Russo (hereinafter Russo) under 35 U.S.C. § 103(a).

Claim 1 has been amended to incorporate the claimed subject matter of claims 2 and 5, which have been cancelled. Claim 15, likewise, has been amended to incorporate the subject matter of claims 16 and 19, which have been cancelled. Claim 28 has also been amended to incorporate the subject matter of claims 16 and 19. The following

Remarks will therefore be directed towards the Examiner's rejections of claims 2, 5, 16, and 19, which have been incorporated into the independent claims not in acquiescence of the Examiner's position on allowability but in order to expedite prosecution.

With regards to claims 2 and 16 the Examiner states the following:

[T]he system control computer would assign and notify the user of a fee or also know as "negative credit value" to view a video program or "debit-bearing content" (See Neel Fig. 7a). Furthermore, the user is able to view an interactive advertisement or "credit-bearing content," where if the user completes viewing the advertisement then the video program would be free or "positive credit value" for the user to enjoy (See Neel Fig. 7a and column 4 lines 50-60).

With regards to claims 5 and 19 the Examiner states the following:

[T]he system control computer offers the user an option for the user to view an advertisement, which would make the video program free to the user or "adjust the attributed credit value...based on the cost factor data and one additional predetermined criterion" (See Neel Fig. 7a and Russo column 5 lines 10-35).

Applicants respectfully submit that in order to establish a *prima facie* case of obviousness three criteria must be met. First, must be some suggestion or motivation to modify a reference or combine reference teachings, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. Second, the modification or combination must have some reasonable expectation of success. Third, the prior reference or combined references must teach or suggest all the claim limitations. MPEP § 2143. The teachings of a prior art reference must be considered **as a whole** including those portions that would lead away from the claimed invention. MPEP § 2141.02(VI).

Applicants respectfully submit that Neel and Russo do not teach the subject matter of claims 1, 15 and 28, as amended.

Neel teaches a digital video service system where a user is able to avoid paying for the cost of viewing a pay-per-view program by proceeding through an interactive advertisement of a certain sponsor (Figs. 6, 7a, col. 17 line 45-col. 19 line 44). Neel does not teach a system wherein received media content is assigned either a positive credit value for content construed as credit-bearing or a negative credit value for content construed as debit-bearing **and** wherein the system **adjusts** the assigned credit value of the received media content based upon the cost and at least one additional predetermined criterion.

There is no teaching in Neel that suggests the **adjustment of assigned credit values** based upon cost and at least one other criterion. The price of the pay-per-view content in the system of Neel undergoes no adjustment, but should the user elect to view the commercial the price is waived and billed to the advertiser (i.e., “Little Women” still costs \$4.95 but that money is paid by the advertiser rather than the user) (Fig. 7a, col. 4 lines 51-56).

The Examiner asserts that Neel teaches adjustment of the credit value in that if the user views the commercial the system “adjusts” the price of the content to zero. Applicants respectfully submit that this position is logically inconsistent with the Examiner’s position with regards to the assignment of positive credit values.

If the advertisement of Neel has a positive credit value and the program a negative credit value then the two cancel each other out in the user's account and there is no teaching in Neel of an adjustment of either credit value.

If the viewing the advertisement results in an adjustment of the value of the program to zero then there is no teaching in Neel of assigning a positive credit value to received media content, because the advertisement would have no credit value at all, viewing the advertisement would only serve as the criterion for adjustment.

This is in sharp contrast to Applicants' currently claimed invention where received media content assigned positive and negative credit values depending on its content **and** those credit values can be adjusted on the basis one or more criteria such as, for purposes of example only, target advertising audience or age of the content (page 7 lines 9-15).

The Examiner also references column 5 lines 10-35 of Russo with regards to the teaching of an "adjustment" of credit values. Applicants respectfully submit that Russo does not teach the adjustment of credit values. Rather, Russo teaches a video on demand system where a user's account is not debited for a particular program until the user has viewed a significant portion of the program, the overall cost of watching the program remains the same. Simply put, the system of Russo allows a user to pause a program for a significant time without the user's account being charged or to get a free preview of the program.

At best, the teachings of Russo can be characterized as offering a program in a plurality of segments where the first part of the program (up to where the user's account is charged) has a credit value of zero and the second part of the program (after the user's account is charged) has a credit value of whatever the cost of the program is. But the credit value of these segments or of the program as a whole is not adjusted according to any criterion. The rejection is therefore improper.

For the foregoing reasons, Applicants respectfully submit that claims 1, 15, and 28 are allowable over Neel and Russo. Applicants respectfully request that the Examiner withdraw the rejection of claims 1, 15, and 28 as being unpatentable over Neel in view of Russo under 35 U.S.C. § 103(a).

With regards to the rejection of claims 3, 4, 6-12, 17, 18, and 20-25, these claims are dependent upon independent claims 1 and 15. Applicants respectfully submit that these claims are allowable over Neel and Russo for at least the same reasons as discussed above with regards to claims 1 and 15. Applicants respectfully request that the Examiner withdraw the rejection of claims 3, 4, 6-12, 17, 18, and 20-25 as being unpatentable over Neel and Russo under § 103(a).

**Rejection of claims under 35 U.S.C. § 103(a)
over Neel in view of Russo, and further in view of Hunter:**

Claims 13, 14, 26, and 27 stand rejected as being unpatentable over Neel in view of Russo, and further in view of U.S. published application 2003/0133692 of Hunter (hereinafter Hunter) under 35 U.S.C. § 103(a).

With regards to claims 13, 14, 26, and 27, these claims are dependent upon independent claims 1 and 15. Applicants respectfully submit that claims 1 and 15 are allowable over Neel and Russo as established above. Claims 13, 14, 26 and 27 are also allowable, then, for at least the same reasons as claims 1 and 15. Applicants respectfully request that the Examiner withdraw the rejection of claims 13, 14, 26 and 27 as being unpatentable over Neel in view of Russo, and further in view of Hunter under 35 U.S.C. § 103(a).

Applicants would like to respectfully point out that the teachings of Hunter are not sufficient to overcome the above discussed deficiencies in the teachings of Neel and Russo with respect to the subject matter of the independent claims, as amended.

In view of the foregoing, it is respectfully submitted that independent claims 1, 15, and 28 fully distinguish over the applied art and are thus in condition for allowance. By virtue of dependence from claims 1 and 15, and in their own right, it is also submitted that claims 3, 4, 6-14, 17, 18, and 20-27 are also allowable at this juncture.

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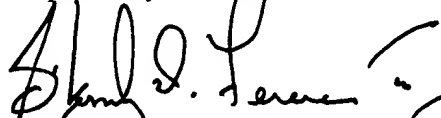
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In summary, it is respectfully submitted that the instant application, including claims 1, 3, 4, 6-15, 17, 18, and 20-28, is presently in condition for allowance. Notice to the effect is hereby earnestly solicited. If there are any further issues in this application, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,



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